IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

Tr.P(C).No. 95 of 2007()

OP.68/2007 of FAMILY COURT, AT ETTUMANOOR, KOTTAYAM
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PETITIONER

JIGGI RANI JOSEPH @ MARIYAM,
D/O.JOSEPH VARKEY, ATTUPPURATHU HOUSE,
KATTAPPANA KARA, DO. VILLAGE.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS:
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1. TEDDY K.KURIAN @ ABRAHAM,
KOTTUKULAM HOUSE, PERUMBAIKADU KARA,
DO VILLAGE, KOTTAYAM TALUK.

2. K.A.KURIAN, SON OF AVIRAH, DO. DO.

BY ADV. SRI.V.B.HARI NARAYANAN

THIS TRANSFER PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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Tr.P.C. NO. 95 OF 2007

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Dated this the 28th day of May, 2007.

J U D G M E N T

The wife who has filed O.P.97/07 before the Family Court, Thodupuzha has moved an application to transfer the petition for divorce filed by the husband as O.P.68/07 before the Family Court of Kottayam at Ettumanoor to the Family Court at Thodupuzha. The unfortunate couple got married in the year 2003 and now they are in the verge of a break up. The husband moved an application for divorce and the wife moved the O.P. for realisation of the amount. It is averred by the wife that the distance to Family Court, Ettumanoor is 120 kms. from the place where the petitioner resides whereas the distance to Family Court, Thodupuzha is only 70 kms. It is also stated that there is nobody to properly escort her to the Family Court at Ettumanoor.

The learned counsel for the respondent had cited before me a decision of the Apex Court reported in ***Anindita Das v. Srijit Das (2006 (9) SCC 197)***. In that case the Apex Court held as follows:

> "At one stage the Supreme Court was showing leniency to ladies but since then it has been found that a large number of Transfer petitions are filed by women taking the advantage of the leniency shown by the Supreme Court. On an average of at least 10 to 15 Transfer Petitions are on Board at each Court on each admission day. It is therefore clear that leniency of the Supreme Court is being misused by women. The Supreme Court is now required to consider each petition on its merit. In this case no ground for transfer has been made."

So the Apex Court has clearly laid down that each Transfer Petition has to be dealt with on the merits of the case and not on the sex of the party who has moved the application. The wife is living in a remote area at Kattappana and the husband is aged about 30 years. The wife has filed an application for realisation of the amount and the husband has moved the Family Court at Ettumanoor for divorce. Considering the surrounding of the place of her residence namely Kattappana which is a hilly area and Ettumanoor which is a town it may not be possible for her to reach the Court in time. Further it is averred that there is nobody to accompany her, which must also have to be weighed from the

security point of view. It is always desirable that both the cases are tried by the one and same Court. So, taking into consideration of the entire facts and circumstances of the case, I am satisfied that Transfer must be effected. Therefore, the divorce petition pending before the Family Court, Ettumanoor is transferred to the Family Court, Thodupuzha. I make it very clear that the Court need not necessarily try both the cases together if it is found that one can be disposed of independently so that unnecessary protraction of the divorce proceedings is resulted. With this observation O.P.68 of 2007 pending before the Family Court, Ettumanoor is transferred to the Family Court at Thodupuzha.

M.N. KRISHNAN, JUDGE.

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